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**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
CITIZENS COMMUNICATIONS COMPANY,  
AGUA FRIA DIVISION, FOR (1) AN EXTENSION  
OF THE AREA COVERED BY ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY, (2) APPROVAL OF THE  
CATERPILLAR PROPERTY  
WATER/WASTEWATER AGREEMENT, (3)  
APPROVAL OF THE TARIFF FOR THE WATER  
FACILITIES HOOK-UP FEE, (4) APPROVAL OF  
THE TARIFF FOR GENERAL NON-POTABLE  
WATER SERVICE, AND (5) APPROVAL OF  
RULE NO. 12 APPLICABLE TO NON-POTABLE  
WATER SERVICE.

IN THE MATTER OF THE APPLICATION OF  
CITIZENS WATER SERVICES COMPANY OF  
ARIZONA FOR (1) AN EXTENSION OF THE  
AREA COVERED BY ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WASTEWATER SERVICE, (2)  
APPROVAL OF THE CATERPILLAR PROPERTY  
WATER/WASTEWATER AGREEMENT, AND (3)  
APPROVAL OF THE TARIFF FOR THE  
WASTEWATER FACILITIES HOOK-UP FEE.

DOCKET NO. W-01032B-00-1043

Arizona Corporation Commission  
**DOCKETED**

DEC 28 2001

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DOCKET NO. SW-03454A-00-1043

DECISION NO. 64307

**OPINION AND ORDER**

DATE OF HEARING: August 23, 2001

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes

APPEARANCES: Todd C. Wiley, GALLAGHER & KENNEDY, on  
behalf of Citizens Communications Company;

Teena Wolfe, Staff Attorney, Legal Division, on behalf  
of the Utilities Division of the Arizona Corporation  
Commission.

**BY THE COMMISSION:**

On December 20, 2000, Citizens Communications Company, Agua Fria Division ("Citizens")

1 and Citizens Water Services Company of Arizona ("DistCo") filed with the Arizona Corporation  
2 Commission ("Commission") a joint application for approval to extend their respective existing  
3 Certificates of Convenience and Necessity ("Certificates" or "CC&Ns") to provide water and  
4 wastewater service for property in west central Maricopa County, Arizona, as more fully described in  
5 Exhibit A hereto.

6 On July 10, 2001, a Procedural Order was issued setting the matter for hearing on August 23,  
7 2001 and ordering that public notice of the hearing be accomplished in accordance with the  
8 Procedural Order.

9 On July 25, 2001, the Commission's Utilities Division Staff ("Staff") filed a Staff Report in  
10 this matter.

11 On July 30, 2001, Citizens filed a Notice of Certification of mailing verifying that its notice of  
12 hearing had been sent to each property owner in the affected area.

13 On August 23, 2001, a public hearing was convened before a duly authorized Administrative  
14 Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant and Staff entered  
15 appearances through counsel.

16 At the October 2, 2001 Open Meeting, the Commission directed the Hearing Division to  
17 gather additional information regarding the percentages of ground water, effluent, and Central  
18 Arizona Project water that will be used to irrigate the proposed golf courses and other turf areas in the  
19 proposed WhiteStone development; a more definitive time table for construction of various  
20 components of the project, and water usage associated with construction of those components; and  
21 how the "need" for the project is to be considered by the Commission in evaluating the CC&N  
22 extension request. A Procedural Order was issued on October 5, 2001 requesting that interested  
23 parties file briefs on these issues by October 19, 2001.

24 Motions to intervene and briefs were filed by the Arizona Utility Investors Association, Inc.,  
25 DMB White Tank, L.L.C., the Caterpillar Foundation, the Residential Utility Consumer Office, and  
26 by Citizens Communications Company, the parent company of the joint applicants in this proceeding.  
27 No party opposed these requests for intervention and we will, therefore, grant intervention to each of  
28 the parties indicated above.

1 Having considered the entire record herein and being fully advised in the premises, the  
2 Commission finds, concludes and orders that:

3 **FINDINGS OF FACT**

4 1. Citizens is a Delaware corporation and diversified public utility that provides electric,  
5 natural gas, telecommunications, water and wastewater service to approximately 1.8 million  
6 customers in 20 states, including Arizona. Citizens provides water and wastewater services to  
7 portions of Maricopa, Mohave, and Santa Cruz Counties in Arizona.

8 2. On December 20, 2000, Citizens and DistCo filed a joint application for extensions of  
9 their respective existing CC&Ns to provide water and wastewater service to an area in west central  
10 Maricopa County currently within the town of Buckeye corporate limits and adjacent to and within  
11 the White Tank Mountains. The application reflects the continued development of an area known as  
12 Whitestone by a developer named DMB White Tank, LLC ("DMB"). DMB requested that Citizens  
13 and DistCo provide water and wastewater service, respectively, to Whitestone. The proposed service  
14 area is not currently served by any other certificated utility company.

15 3. Citizens, DistCo and DMB have entered into the Caterpillar Property  
16 Water/Wastewater Agreement ("Agreement"), which provides that DMB will construct the initial  
17 backbone facilities to serve the development and advance the facilities to Citizens and DistCo.  
18 Citizens and DistCo will, in turn, refund the advances to DMB based on a fixed fee per service  
19 connection. The Agreement also provides that subsequent water/wastewater facilities will be funded  
20 through non-refundable hook-up fees assessed to builders within the development. Under the  
21 Agreement, the rate base for the backbone facilities should be approximately half of what the rate  
22 base would otherwise be absent a hook-up fee arrangement.

23 4. The DMB Whitestone development is expected to be an 8,800 acre master planned  
24 community within the town of Buckeye's corporate limits, and adjacent to the White Tank Mountain  
25 Regional Park as well as State and Bureau of Land Management land. Whitestone is located at the  
26 northwest corner of 205<sup>th</sup> Avenue and McDowell Road, and the property lies more than 2,500 feet  
27 from an elevation of approximately 1,100 feet to 3,671 feet at its highest point. It is expected that  
28 Whitestone will eventually include more than 14,000 residential dwelling units and approximately

1 four million square feet of commercial and industrial use space. DMB plans to develop Whitestone  
2 in 7 phases, with initial residential construction commencing in 2003 and full build-out expected  
3 within 15 years. At build-out, the number of water and wastewater customers is expected to translate  
4 to 9,589 equivalent residential units ("ERUs") and 2,056 commercial equivalent units.

5       5. The Agreement further provides, among other things, that the Citizens companies will  
6 review and approve the DMB Master Plan prior to construction of the water/wastewater facilities by  
7 DMB. The Citizens companies will inspect the construction of Phase I off-site facilities and the on-  
8 site backbone facilities and each phase of the facilities will become the property of the Citizens  
9 companies upon issuance of an operational acceptance by the companies. The Agreement may be  
10 assigned by a party to a parent corporation or other entity in which it has a controlling interest. The  
11 Citizens companies are permitted to assign the Agreement to American Water Works Company, Inc.,  
12 Arizona-American Water Company, or any subsidiary thereof.

13       6. Staff's analysis indicates that, since there are no identified off-site service wells or  
14 water lines that could be extended to the site, an independent potable water supply and delivery  
15 system must be developed. Staff states that the general overall groundwater quality in the area is  
16 good, with the exception of elevated nitrate concentrations in several wells. The groundwater will be  
17 pumped from the well sites to a mixing facility and, in the event the groundwater requires treatment,  
18 a treatment plant will be constructed in lieu of the mixing tank. The first well site is an existing well  
19 site that is currently pumping 600 gallons per minute ("gpm"). A second well site has been drilled to  
20 920 feet. Due to the slope of the property, 17 pressure zones will be created in order to maintain a  
21 pressure range of 35 psi at 80 feet and 56 psi at 130 feet.

22       7. The developer has completed a groundwater investigation for the project that indicates  
23 production rates for new production wells of 1,000 to 1,500 gpm. It is estimated that the project will  
24 require the development of three potable production wells for the Phase I maximum day flow of  
25 potable water, plus supplemental golf course irrigation at full build-out. Staff notes that one of the  
26 three potable production wells is required for redundancy, and one effluent recovery well will be  
27 needed to optimize the utilization of effluent for golf course irrigation.

28       8. Citizens has not been designated as having an assured water supply pursuant to A.R.S.

1 § 45-576(D). Until Citizens has been designated by the director of the Arizona Department of Water  
2 Resources (ADWR) as having an assured supply, the developer or associated builders must seek and  
3 obtain Certificates of Assured Water Supply from ADWR prior to subdividing and developing the  
4 property. Citizens will execute Notices of Intent to Serve in accordance with ADWR requirements,  
5 and will enter into contracts as are required by the Central Arizona Groundwater Replenishment  
6 District, pursuant to A.R.S. §§ 48-3772(B) and 48-3774(C).

7 9. The Agreement provides that potable water services will be provided by Citizens in  
8 accordance with the Company's approved rates and tariffs. Non-potable water service will be  
9 provided to the development under the same rates and terms in effect currently for the Citizens  
10 Anthem Project (\$0.62 per 1,000 gallons). DistCo will provide wastewater services to the  
11 Whitestone development under its current rates and tariffs approved by the Commission.

12 10. Based on its review of the Application and related documents, Staff recommends that  
13 the Commission approve:

- 14 a. the Caterpillar Property Water/Wastewater Agreement, as modified;
- 15 b. the Agreement's tariff applicable to non-potable water service, as amended on  
16 July 23, 2001;
- 17 c. the Agreement's July 23, 2001 amended hook-up fee tariff to be charged by  
18 Citizens for subsequent water facilities; and
- 19 d. the Agreement's July 23, 2001 amended hook-up fee tariff to be charged by  
20 Citizens for subsequent wastewater facilities.

21 Staff also recommends that the Commission require all hook-up fees collected under the tariffs to be  
22 placed in separate interest bearing accounts and used only for the installation of backbone off-site  
23 facilities. Staff further recommends that the Commission require Citizens and DistCo to file annual  
24 reports on the hook-up fee accounts disclosing: the name of each entity paying a hook-up fee; the  
25 amount of the hook-up fee paid by each entity; a description of the utility plant constructed with  
26 hook-up fee funds; the balance of the hook-up fee account; interest earned on the hook-up fee  
27 account; and any other information required by Staff. In addition, Staff recommends that the  
28 Commission require the hook-up fees to be considered non-refundable contributions. Staff

1 recommends that the Commission require Citizens and DistCo to charge their existing rates, except  
2 for hook-up fees and non-potable water for which no current tariffs exist. Finally, Staff recommends  
3 that the Commission require Citizens to file all related municipal agreements within 365 days of this  
4 Decision.

5       11.     Citizens did not file any objections to the Staff Report prior to the hearing, as directed  
6 by a July 10, 2001 Procedural Order. However, at the hearing Citizens stated opposition to Staff's  
7 recommendation that the hook-up fee funds should be maintained in a separate interest bearing  
8 account and the recommendation that Citizens should be required to file annual reports on the hook-  
9 up fee balances. Citizens witness Ray Jones testified that Staff's recommendation was unnecessary  
10 because, except in the first few years of the project, the hook-up fees will be disbursed faster than  
11 they are received. Mr. Jones stated that the hook-up fees are only expected to account for half of total  
12 cost of the backbone facilities and, once the first large facility is constructed, there will never be  
13 funds collected in excess of those expended (Tr. 17-18). Mr. Jones also testified that the separate  
14 account requirement would be detrimental to current customers because, rather than allowing  
15 Citizens to record the hook-up fees immediately as contributions which would reduce rate base and  
16 depreciation expense, the separate account would earn only minimal interest. Additionally, Mr. Jones  
17 indicated that requiring the funds to be maintained in a separate account would be burdensome to  
18 Citizens because the Company receives and disburses cash on a centralized basis at the corporate  
19 level. Finally, Mr. Jones stated that, because Citizens is a large company with assets exceeding \$6  
20 billion, there should be no concern by the Commission regarding the availability of funds for  
21 construction of facilities (*Id.* at 19-20).

22       12.     Staff witness Jim Fisher testified at the hearing that, despite the reasons stated by  
23 Citizens, Staff believes the hook-up fees should be maintained in a separate account. He indicated  
24 that "hook-up fees are not a normative program for a utility" and, therefore, such funds should be  
25 maintained separately to ensure that they are available to be spent only on infrastructure requirements  
26 (Tr. 34-35). Mr. Fisher also stated that maintaining hook-up fees in a separate account would guard  
27 against possible accounting errors and would aid regulatory compliance. He testified that Staff's  
28 recommendation in this case is consistent with the Commission's policy in prior proceedings,

1 although he was not aware of any instances where a company as large as Citizens had sought a hook-  
2 up fee tariff for a large development. However, he stated that the separate account requirement for  
3 hook-up fees had been applied consistently for all companies that had previously been authorized to  
4 collect such fees (*Id.* at 42-44).

5       13. We agree with Staff that the hook-up fees collected by Citizens and DistCo should be  
6 maintained in separate accounts, consistent with past decisions by the Commission. As Staff points  
7 out, inclusion of the hook-up fees in separate accounts will help ensure that the funds are readily  
8 available for their intended purpose, *i.e.*, the construction of backbone facilities necessary to serve the  
9 Whitestone development. Further, the separate accounts will assist Staff in future rate cases in  
10 auditing the flow of funds in and out of the accounts (for purposes of determining the proper crediting  
11 of these contributions in aid of construction against the Applicants' rate bases). This may be  
12 especially important given the pending sale of Citizens' assets to American Water Works Company.  
13 We do not believe that maintaining these funds in separate accounts represents an undue  
14 administrative burden on the Company and, indeed, the separate accounting treatment may assist  
Citizens' ability to track capital expenditures for this project.

15       14. Aside from the hook-up fee issues discussed above, Citizens and DistCo agree to  
16 comply with and abide by all of the recommendations contained in the Staff Report. Accordingly,  
17 Citizens, DistCo, and Staff agree that the proposed tariffs, as amended by Hearing Exhibit A-2,  
18 should be approved and that Citizens and DistCo should charge their existing rates and charges for  
19 potable water service and wastewater service, and the Citizens Anthem Project rates for non-potable  
water, in the area described in Exhibit A attached hereto.

20       15. With respect to the water usage issues, Citizens attached to its brief the affidavit of  
21 Blaine Akine, the Company's Engineering and Development Services Director. Mr. Akine stated  
22 that the total irrigation for WhiteStone through build-out (for golf courses and other turf areas) is  
23 expected to be provided entirely with renewable water supplies through a combination of direct  
24 effluent reuse, recovered effluent storage credits, and recovered CAP water storage credits. Mr.  
25 Akine stated that no use of mined groundwater is planned for WhiteStone's golf courses or other  
26 irrigated turf areas. With respect to potable water, Citizens asserts that the total demand through  
27 build-out will be provided from a combination of direct deliveries of treated CAP water, recovered  
28 effluent storage credits, recovered CAP water storage credits, and groundwater pumping. During the  
first two years of development, 50 percent of potable water will be provided from recovered CAP

1 water storage credits and 50 percent will be provided from groundwater. Mr. Akine stated that,  
2 beginning in 2005, direct deliveries of treated CAP water will be made and such water will provide  
3 71 percent of potable demand after 2006. The balance of potable water will come from a  
4 combination of recovered effluent storage credits and groundwater.

### 5 CONCLUSIONS OF LAW

6 1. Citizens Communications Company, Agua Fria Division (Citizens), and Citizens  
7 Water Services Company of Arizona (DistCo) are public service corporations within the meaning of  
8 Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

9 2. The Commission has jurisdiction over Citizens and DistCo and the subject matter of  
10 the application.

11 3. Notice of the application was provided in accordance with law.

12 4. There is a public need and necessity for water and wastewater utility services in the  
13 proposed extension area.

14 5. Citizens and DistCo are fit and property entities to receive an extension of their water  
15 and wastewater Certificates which, as proposed, would encompass an area currently within the town  
16 of Buckeye corporate limits, at the northwest corner of 203<sup>rd</sup> Avenue and McDowell Road, in west  
17 central Maricopa County, as more fully described in Exhibit A attached hereto.

18 6. Staff's recommendations set forth in Findings of Fact No. 10 and 12 are reasonable  
19 and should be adopted.

### 20 ORDER

21 IT IS THEREFORE ORDERED that the application of Citizens Communications Company,  
22 Agua Fria Division, and Citizens Water Services Company of Arizona for an extension of their  
23 Certificates of Convenience and Necessity to include an area in west central Maricopa County,  
24 Arizona, as set forth in Exhibit A hereto, be, and hereby is granted.

25 IT IS FURTHER ORDERED that the Caterpillar Property Water/Wastewater Agreement  
26 between Citizens Communications Company, Agua Fria Division, Citizens Water Services Company  
27 of Arizona, and DMB White Tank, LLC, is hereby approved.

28 IT IS FURTHER ORDERED that the proposed tariffs for Citizens Communications



1 Company. Agua Fria Division, and Citizens Water Services Company of Arizona, as amended,  
2 including the hook-up fees for water and wastewater facilities, as well as the tariffs for potable and  
3 non-potable water service, are approved.

4 IT IS FURTHER ORDERED that Citizens Communications Company, Agua Fria Division,  
5 and Citizens Water Services Company of Arizona shall comply with Staff's recommendation to  
6 maintain all water and wastewater hook-up fees related to this project in a separate interest bearing  
7 account, and to file annual reports in accordance with Staff's recommendation.

8 IT IS FURTHER ORDERED that Citizens Communications Company, Agua Fria Division,  
9 and Citizens Water Services Company of Arizona treat all water and wastewater hook-up fees related  
10 to this project as non-refundable contributions.

11 IT IS FURTHER ORDERED that Citizens Communications Company, Agua Fria Division,  
12 and Citizens Water Services Company of Arizona charge their existing rates and charges for  
13 customers in the Whitestone development, with the exception of hook-up fees and non-potable water  
14 charges, which shall be assessed in accordance with the tariffs contained in the Application and  
15 Hearing Exhibit A-2, and as amended by the Staff Report.

16 IT IS FURTHER ORDERED that Citizens Communications Company, Agua Fria Division,  
17 and Citizens Water Services Company of Arizona shall file water and wastewater tariffs in  
18 compliance with this Decision within 30 days.

19 IT IS FURTHER ORDERED that Citizens Communications Company, Agua Fria Division,  
20 and Citizens Water Services Company of Arizona shall file copies of all required permits and  
21 approvals to the Utilities Division Director within 18 months of the date of this Decision.

22 IT IS FURTHER ORDERED that Citizens Communications Company, Agua Fria Division,  
23 and Citizens Water Services Company of Arizona shall file a copy of all related municipal franchise  
24 agreements within 365 days of the effective date of this Decision.

25 IT IS FURTHER ORDERED that, in the event Citizens Communications Company, Agua  
26 Fria Division, and Citizens Water Services Company of Arizona fail to meet the above conditions  
27 within the time specified, the extension of the Companies Certificates of Convenience and Necessity  
28 shall be deemed to be denied, without further Order of the Arizona Corporation Commission.

1 IT IS FURTHER ORDERED that the motions to intervene filed by the Arizona Utility  
2 Investors Association, Inc., DMB White Tank, L.L.C., the Caterpillar Foundation, the Residential  
3 Utility Consumer Office, and Citizens Communications Company are granted.

4 IT IS FURTHER ORDERED that renewable water supplies shall be the primary source of  
5 water for golf course and other turf facilities, except that groundwater may only be used consistent  
6 with State Law which requires replenishment of mined groundwater. If groundwater is used for such  
7 purposes, Citizens shall notify the Commission within two business days, and show good cause why  
8 the use of groundwater is necessary.

9 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

10 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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13 CHAIRMAN  COMMISSIONER  COMMISSIONER

14  
15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
16 Secretary of the Arizona Corporation Commission, have  
17 hereunto set my hand and caused the official seal of the  
18 Commission to be affixed at the Capitol, in the City of Phoenix,  
19 this 28th day of December, 2001.

20   
21 BRIAN C. McNEIL  
22 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR: CITIZENS COMMUNICATIONS COMPANY  
2 DOCKET NOS.: W-01032B-00-1043 and SW-03454A-00-1043  
3  
4 Todd C. Wiley  
5 GALLAGHER & KENNEDY  
6 2575 East Camelback Road  
7 Phoenix, AZ 85016-9225  
8 Attorneys for Citizens Communications Company  
9  
10 Christopher Kempley, Chief Counsel  
11 Legal Division  
12 ARIZONA CORPORATION COMMISSION  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007  
15  
16 Steve Olea, Acting Director  
17 Utilities Division  
18 ARIZONA CORPORATION COMMISSION  
19 1200 West Washington Street  
20 Phoenix, Arizona 85007  
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EXHIBIT A

All of Section 24;

All of Section 25;

Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County,  
Arizona

That portion of Section 6, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona described as follows;

BEGINNING at the Northwest corner of said Section 6, said point also being the TRUE POINT OF BEGINNING;

thence along the North line of Section 6, N89°57'39"E, 2437.60 feet; thence S14°06'52"E, 206.19 feet; thence S00°04'51"E, 491.44 feet to a point on the Northerly right-of-way line of Interstate 10 and the beginning of a non-tangent curve; thence westerly along said curve having a radius of 11602.57 feet, concave Southerly, whose radius bears S02°39'27"E, through a central angle of 12°26'54", 2520.84 feet to a point on the West line of Section 6 and a point of intersection with a non-tangent curve; thence along the West line N00°09'05"W, 1078.18 feet to the TRUE POINT OF BEGINNING and the end of this line description;

Township 1 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County,  
Arizona

The Northeast Quarter of Section 1:

EXHIBIT A

Legal Description

Certificate of Convenience and Necessity

Citizens Communications Company, Agua Fria Division

Citizens Water Services Company of Arizona

Township 2 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County,  
Arizona

All of Section 7;

All of Section 18;

All of Section 19;

The South half of Section 20;

All of Section 30;

All of Section 31;

Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County,  
Arizona

All of Section 3;

All of Section 10;

All of Section 11;

All of Section 12;

All of Section 13;

All of Section 23;

DECISION NO. 64307

## **AMENDMENT - ALTERNATE**

IT IS FURTHER ORDERED that renewable water supplies shall be the primary source of water for golf course and other turf facilities, except that groundwater may only be used consistent with State Law which requires replenishment of mined groundwater. If groundwater is used for such purposes, Citizens shall notify the Commission within two business days.